

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:23-22688-CIV-ALTONAGA/Louis

FLORIDA RIGHTS RESTORATION  
COALITION, et al.,

Plaintiffs,

v.

RONALD DESANTIS, in his official  
capacity as Governor of Florida, et al.,

Defendants.

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**SUPERVISOR OF ELECTIONS AND CLERKS DEFENDANTS'  
MOTION FOR CLARIFICATION OF ORDER (ECF 329)**

Defendants, Florida's Supervisors of Elections (the "Supervisors") and the Clerks of Court (the "Clerks"), move for clarification of the Court's Paperless Order ("Order Granting Stay") (ECF 329) that granted the State Agency Defendants' Motion to Stay Discovery (ECF 325). To avoid inadvertently violating their discovery obligations, the Supervisors and the Clerks respectfully request confirmation that the Order Granting Stay stayed *all* discovery, including for the Supervisors and the Clerks. Alternatively, the Supervisors and the Clerks join the Motion to Stay.

1. On October 30, 2023, all 142 public official defendants filed a collective Motion to Dismiss (as subsequently corrected on November 3, 2023). (ECF 342, 330.) All defendants asserted various dispositive arguments including that Plaintiffs lack Article III standing (ECF 330 at 6-9), Plaintiffs' claims are barred by sovereign immunity (ECF 330 at 9-13), Plaintiffs' Amended Complaint is not short and concise (ECF 330 at 17-19), and Plaintiffs fail to state a claim (ECF 330 at 19-23).

2. That same day, Defendants Ron DeSantis; Florida Secretary of State Cord Byrd; Secretary of the Florida Department of Corrections Ricky D. Dixon; Commissioner of the Florida Department of Law Enforcement Mark Glass; and Commissioners of the Florida Commission on Offender Review Melinda N. Coonrod, Richard D. Davison, and David A. Wyant (collectively, the “State Agency Defendants”) “move[d] to stay *all* discovery obligations until after this Court’s resolution of the motion to dismiss.” (ECF 325 at 2, 4, 7) (emphasis added). The State Agency Defendants argued that “[e]xpensive and time-consuming discovery obligations on parties, in a case that has not been pled appropriately, does nothing but waste resources.” (ECF 325 at 2).

3. The Court granted the Motion, stating “the State Agency Defendants have met their burden in showing *a stay of discovery* is appropriate and necessary.” (ECF 329) (emphasis added).

4. Based on the express relief sought by the State Agency Defendants, the Supervisors and Clerks understand the Order Granting Stay as staying *all* discovery in this case. The State Agency Defendants sought a stay to “all” discovery obligations (ECF 325 at 2, 4, 7), and the Court granted that Motion. Plaintiffs have served broad discovery requests—requests for production and interrogatories—on the Supervisors and Clerks as well.

5. Plaintiffs, however, have informed the Supervisors that they disagree with this interpretation and that this Court’s Order Granting Stay applied only to the moving parties. In an abundance of caution and to avoid unnecessary discovery disputes, the Supervisors and Clerks therefore ask this Court to confirm that its Order stayed all discovery.

6. The same rationale that supports a stay of the State Agency Defendants’ discovery obligations supports a stay as to the Supervisors and Clerks. Plaintiffs have served broad discovery requests on the Supervisors and Clerks. The Supervisors and Clerks have raised multiple dispositive issues in their Motion to Dismiss, including challenges to Plaintiffs’ standing under Article III, an assertion of sovereign immunity, and contentions that Plaintiffs failed to state a claim and misjoined sixty-seven Supervisors and Clerks in a single action. The Court’s ruling on this potentially case-dispositive motion might either end the litigation for the Supervisors and Clerks or substantially narrow the broad and unwieldy case pleaded

in Plaintiffs' operative complaint. Meanwhile, the Supervisors are county-level officials with limited resources and are engaged in preparations for the presidential preference primary election scheduled for March 19, 2024; the Clerks also have limited resources and must continue to meet the daily demands of their offices. To require 134 county-level election officials to engage in discovery and incur public expense that might prove unnecessary would be incompatible with the orderly and efficient administration of elections and this litigation.

7. Alternatively, the Supervisors and Clerks join the State Agency Defendants' Motion to Stay. In their Motion to Stay, the State Agency Defendants argued that the combined Motion to Dismiss raised numerous meritorious arguments concerning jurisdictional defects, sovereign immunity, violation of the pleading standards, and Plaintiffs' failure to state a claim. (ECF 325 at 2-4.) The Supervisors and Clerks jointly raised these same arguments. *See supra* at ¶ 1. Consequently, the Supervisors' and Clerks' discovery obligations should be stayed for the same reasons as the State Agency Defendants' discovery obligations.

**WHEREFORE**, the Supervisors and Clerks respectfully request this Court to clarify that its Order Staying Discovery applies all parties. Alternatively, the Supervisors and Clerks join the State Agency Defendants' Motion and request the Court stay discovery for them as well.

**CERTIFICATE OF GOOD-FAITH CONFERENCE**

Pursuant to Local Rule 7.1(a)(3)(A), counsel for the Supervisors and the Clerks conferred with counsel for Plaintiffs in a good-faith effort to resolve the issues raised in this motion. Plaintiffs agreed to stay discovery temporarily while the Supervisors and Clerks ask this Court to clarify whether the discovery stay applies to all parties. Plaintiffs take the following additional positions: (1) “Because the SOE Defendants are interpreting the order to mean a stay as to all discovery, Plaintiffs agree on seeking clarification from the Court on its intent in the order”; and (2) “If the Court intended to stay discovery generally pending resolution of the motion to dismiss, that stay should equally apply to Plaintiffs.” The Supervisors and Clerks agree that the stay should apply to all parties, including Plaintiffs.

Dated November 16, 2023.

Respectfully submitted,

/s/ John K. Londot

John K. Londot (FBN 579521)  
GREENBERG TRAURIG P.A.  
101 E. College Avenue  
Tallahassee, Florida 32302  
Telephone: 850-222-6891  
londotj@gtlaw.com

*Attorneys for Defendants, Clerks of Court and Comptrollers of Baker, Bay, Bradford, Brevard, Calhoun, Charlotte, Citrus, Clay, Columbia, Dixie, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Highlands, Hillsborough, Indian River, Jackson, Jefferson, Lafayette, Lake, Lee, Liberty, Manatee, Marion, Martin, Miami-Dade, Monroe, Nassau, Okaloosa, Okeechobee, Palm Beach, Pasco, Pinellas, Polk, Putnam, Santa Rosa, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, Suwannee, Taylor, Union, Wakulla, Walton and Washington Counties, and Defendants, Clerks of Court of DeSoto, Orange, and Volusia Counties*

/s/ Nathaniel A. Klitsberg

Nathaniel A. Klitsberg (FBN 307520)  
Joseph K. Jarone (FBN 117768)  
Devona A. Reynolds Perez (FBN 70409)  
BROWARD COUNTY ATTORNEY'S  
OFFICE  
115 S. Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301  
Telephone: 954-357-7600  
nklitsberg@broward.org  
dreynoldsperez@broward.org  
jkjarone@broward.org  
*Attorneys for Defendant, Broward County Supervisor of Elections*

/s/ Andy Bardos

Andy Bardos (FBN 822671)  
GRAYROBINSON, P.A.  
301 South Bronough Street, Suite 600  
Tallahassee, Florida 32301  
Telephone: 850-577-9090  
andy.bardos@gray-robinson.com  
*Attorneys for Defendants, Supervisors of Elections for Charlotte, Collier, Indian River, Lake, Lee, Marion, Manatee, Monroe, Pasco, and Seminole Counties*

/s/ Susan S. Erdelyi

Susan S. Erdelyi (FBN 0648965)  
MARKS GRAY, P.A.  
1200 Riverplace Blvd., Suite 800  
Jacksonville, Florida 32207  
Telephone: 904-398-0900  
serdelyi@marksgray.com  
*Attorneys for Defendants, Baker, Bay, Bradford, Calhoun, Columbia, Dixie, Franklin, Gadsden, Gulf, Hamilton, Jackson, Lafayette, Liberty, Nassau, Putnam, St. Johns, Santa Rosa, Sumter, Suwannee, Taylor, Union, Walton, Wakulla, and Washington County Supervisors of Elections*

/s/ John T. LaVia, III

John T. LaVia, III (FBN 0853666)  
GARDNER, BIST, BOWDEN, BUSH, DEE, LA VIA & WRIGHT, P.A.  
1300 Thomaswood Drive  
Tallahassee, Florida 32308  
Telephone: 850-385-0070  
jlavia@gbwlegal.com  
*Attorneys for Defendants, Clay, Martin, Osceola, Palm Beach, Polk, and St. Lucie County Supervisors of Elections*

/s/ Frank Mari

Frank M. Mari  
Florida Bar No. 93243  
ROPER, P.A.  
2707 E. Jefferson Street  
Orlando, FL 32803  
Telephone: (407) 897-5150  
Facsimile: (407) 897-3332  
Primary email: fmari@roperpa.com  
Secondary email: ihaines@roperpa.com  
*Attorney for Defendants Connie Sanchez, Karen Healy, Kaiti Lenhart, Michelle Milligan, Heath Driggers, Tim Bobanic, Mark Negley, and Billy Washington*

/s/ Genesis Martinez

Genesis Martinez (FBN 1018327)  
Alexandra Mora (FBN 52368)  
AKERMAN LLP  
98 Southeast Seventh Street, Suite 1100  
Miami, Florida 33131  
genesis.martinez@akerman.com  
alexandra.mora@akerman.com  
*Attorneys for Defendants, Miami-Dade  
County Clerk of Court and Comptroller*

/s/ Albert T. Gimbel

Albert T. Gimbel (FBN 279730)  
MESSER CAPARELLO, P.A.  
2618 Centennial Place  
Tallahassee, Florida 32317  
Telephone: 850-222-0720  
tgimbel@lawfla.com  
*Attorneys for Defendant, Clerk of Court  
of Broward County*

/s/ Paul D. Brannon

Paul D. Brannon (FBN 820636)  
William B. Graham (FBN 359068)  
CARR ALLISON  
305 S. Gadsden Street  
Tallahassee, Florida 32301  
Telephone: 850-222-2107)  
dbrannon@carrallison.com  
bgrahama@carrallison.com  
*Attorneys for Defendant, Escambia  
County Supervisor of Elections*

/s/ Mark Herron

Mark Herron (FBN 199737)  
MESSER CAPARELLO, P.A.  
2618 Centennial Place  
Tallahassee, Florida 32308  
Telephone: 850-222-0720  
mherron@lawfla.com  
*Attorneys for Defendant, Leon County  
Supervisor of Elections*

/s/ Geraldo F. Olivo, III

Geraldo F. Olivo, III (FBN 60905)  
HENDERSON, FRANKLIN, STARNES &  
HOLT, P.A.  
1715 Monroe Street  
Fort Myers, Florida 33901  
Telephone: 239-344-1100  
jerry.olivo@henlaw.com  
*Attorneys for Defendants, Glades,  
Hardee, Hendry, Holmes, Levy, and  
Okeechobee Supervisors of Elections,  
and Clerks of Court and Comptrollers  
of Glades, Hardee, Hendry, Holmes,  
Levy, and Okeechobee Counties*

/s/ Robert C. Swain

Robert C. Swain (FBN 366961)  
Diana M. Johnson (FBN 69160)  
ALACHUA COUNTY ATTORNEY'S OFFICE  
12 S.E. 1st Street  
Gainesville, Florida 32601  
Telephone: 352-374-5218  
dmjohnson@alachuacounty.us  
bswain@alachuacounty.us  
kniederloh@alachuacounty.us  
*Attorneys for Defendants, Alachua  
County Supervisor of Elections, Clerk  
of Court, and Comptroller*

/s/ Carter E. Young

Carter E. Young (FBN 58034)  
CLERK OF COURT AND COMPTROLLER  
Leon County, Florida  
301 S. Monroe Street, Suite 100  
Tallahassee, Florida 32301  
Telephone: 850-606-4121  
CEYoung@leoncountyfl.gov  
*Attorneys for Defendants, Leon County  
Clerk of Court and Comptroller*

/s/ Jon A. Jouben

Jon A. Jouben (FBN 149561)  
Kyle J. Benda (FBN 113525)  
HERNANDO COUNTY  
20 N. Main Street, Suite 462  
Brooksville, Florida 34601-2850  
Telephone: 850-754-4122  
jjouben@co.hernando.fl.us  
kbenda@co.hernando.fl.us  
*Attorneys for Defendant, Hernando  
County Supervisor of Elections*

/s/ Brian D. Goodrich

Brian D. Goodrich (FBN 106948)  
BENTLEY GOODRICH KISON, P.A.  
783 S. Orange Avenue, Suite 300  
Sarasota, Florida 34236  
Telephone: 941-556-9030  
bgoodrich@thebentleylawfirm.com  
*Attorneys for Defendants, Sarasota  
County Supervisor of Elections, Clerk of  
Court, and Comptroller*

/s/ Michael B. Valdes

Michael B. Valdes (FBN 93129)  
Sophia M. Guzzo (FBN 1039644)  
MIAMI-DADE COUNTY ATTORNEY'S  
OFFICE  
111 N.W. First Street, Suite 2810  
Miami, Florida 33128  
Telephone: 305-375-5620  
michael.valdes@miamidade.gov  
sophia.guzzo@miamidade.gov  
*Attorneys for Defendant, Miami-Dade  
County Supervisor of Elections*

/s/ Thomas W. Franchino

Thomas W. Franchino (FBN 699276)  
CLERK OF THE CIRCUIT COURT AND  
COMPTROLLER  
Collier County, Florida  
3315 Tamiami Trail East, Suite 102  
Naples, Florida 34112  
Telephone: 239-252-2725  
tom.franchino@collierclerk.com  
*Attorneys for Defendants, Collier County  
Clerk of Court and Comptroller*

/s/ Stephen M. Todd

Stephen M. Todd (FBN 886203)  
HILLSBOROUGH COUNTY ATTORNEY'S  
OFFICE  
601 E. Kennedy Blvd., 27th Floor  
Tampa, Florida 33602  
Telephone: 813-272-5670  
todds@hillsboroughcounty.org  
*Attorneys for Defendant, Hillsborough  
County Supervisor of Elections*

/s/ Christopher A. Mack

Christopher A. Mack (FBN 105348)  
2 Courthouse Square  
Kissimmee, Florida 34741  
Telephone: 407-742-3500  
chris.mack@osceolaclerk.org  
*Attorney for Defendants, Osceola County  
Clerk of Court and Comptroller*

/s/ Tiffiny Douglas Pinkstaff

Tiffiny Douglas Pinkstaff (FBN 682101)  
Associate General Counsel  
OFFICE OF GENERAL COUNSEL  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202  
Telephone: 904-255-5072  
tpinkstaff@coj.net  
*Attorneys for Defendant, Duval County  
Supervisor of Elections*

/s/ Sarah Lynn Jonas

Sarah Lynn Jonas (FBN 115989)  
VOLUSIA COUNTY ATTORNEY'S OFFICE  
123 W Indiana Avenue  
Deland, Florida 32720  
Telephone: 386-5950  
sjonas@volusia.org  
*Attorneys for Defendant, Volusia County  
Supervisor of Elections*

/s/ Jared D. Kahn

Jared D. Kahn (FBN 105276)  
PINELLAS COUNTY ATTORNEY'S OFFICE  
315 Court Street, 6th Floor  
Clearwater, Florida 33756  
Telephone: 727-464-3354  
jkahn@pinellas.gov  
*Attorneys for Defendant, Pinellas  
County Supervisor of Elections*

/s/ Laura J. Boeckman

Laura J. Boeckman (FBN 527750)  
OFFICE OF GENERAL COUNSEL  
117 W. Duval Street, Suite 480  
Jacksonville, Florida 32202  
Telephone: 904-255-5054  
LBoeckman@coj.net  
*Attorneys for Defendant, Duval County  
Clerk of Court*

/s/ Dale A. Scott

Dale A. Scott (FBN 0568821)  
ROPER, P.A.  
2707 E. Jefferson Street  
Orlando, Florida 32803  
Telephone: 407-897-5150  
dscott@roperpa.com  
*Attorneys for Defendant, Citrus County  
Supervisor of Elections*

/s/ Gregory T. Stewart

Gregory T. Stewart (FBN 203718)  
Matthew R. Shaud (FBN 122252)  
NABORS, GIBLIN & NICKERSON, P.A.  
1500 Mahan Drive, Suite 200  
Tallahassee, Florida 32308  
Telephone: 850-224-4070  
gstewart@ngnlaw.com  
mshaud@ngnlaw.com  
*Attorneys for Defendant, Okaloosa  
County Supervisor of Elections*

/s/ Nicholas A. Shannin

Nicholas A. Shannin (FBN 9570)  
SHANNIN LAW FIRM, P.A.  
214 E. Lucerne Circle, Suite 200  
Orlando, Florida 32801  
Telephone: 407-985-2222  
nshannin@shanninlaw.com  
*Attorneys for Defendant, Orange  
County Supervisor of Elections*